

MEMORANDUM OF UNDERSTANDING  
CONCERNING RESEARCH AND DEVELOPMENT  
IN THE FIELD OF PHYSICAL PROTECTION OF  
NUCLEAR MATERIALS AND FACILITIES

The Commissariat a l'Energie Atomique (hereafter "CEA") and the Department of Energy of the United States of America (hereafter "DOE") (hereinafter called "the Parties") sharing a desire to cooperate on research, development, test and evaluation to improve physical protection of nuclear materials and facilities; hereby agree as follows:

Article 1

Cooperation of a technical nature shall be limited to the field of competence of each Party. It will not be exclusive and will not, in particular, interfere with other governmental agreements which could exist (or be concluded) between the two countries.

Site-specific measures adopted for the physical protection of nuclear materials and facilities in each country shall be excluded from the scope of the Memorandum.

This cooperation may extend to exchanges of information, equipment, staff and joint research and development projects.

The use by one Party of test equipment facilities and/or computer programs owned by the other Party shall be agreed upon on a case-by-case basis. Exchanges of staff shall be agreed upon on a case-by-case basis. Information exchanges between the Parties may be in the form of technical reports, experimental data, correspondence, visits, joint experts meetings and such other forms as are jointly agreed by the Parties.

Article 2

- A. A Permanent Coordinating Group (PCG) shall be established, with each Party designating two officials to serve as coordinators, to supervise the execution of this Memorandum. The coordinators shall jointly decide on specific cooperative activities in accordance with Article I and within the guidelines set by the proper governmental authority in France and in the USA; in France, the "Comite Interministeriel de la Securite Nucleaire," and in the U.S., the "Department of Energy." Each cooperative activity will be described in a document defined as an action sheet which will be annexed to this Memorandum.

P.T.  
—

*[Handwritten signature]*

As deemed necessary, the PCG shall meet to evaluate the status of cooperation under this Memorandum. This evaluation shall include an assessment of the balance of exchanges under this Memorandum and a consideration of measures to help maintain a balanced exchange where a balanced exchange supports and does not detract from cooperation to improve physical protection of nuclear materials and facilities. These meetings shall be held alternately in France and in the United States.

- B. Technical management of the cooperation under this Memorandum shall be carried out by Project Leaders designated by the Coordinators. The Project Leaders shall be responsible for the working contacts between the Parties in their respective areas of cooperation.

### Article 3

- A. 1. Each Party may make available to the other information in specified areas of the field of physical protection of nuclear materials and facilities which they have the right to disclose, either in their possession or available to them.
2. Both Parties agree that information exchanged under this Memorandum of Understanding may be given distribution through customary channels and in accordance with the normal procedures of the Parties, subject to the need to protect Proprietary Information exchanged hereunder as provided in paragraph B.1.b of this Article and the need to protect patent rights as provided in Article V.
- B. 1. a. The term "information" means scientific or technical data, results or methods of research and development and any other information intended to be provided or exchanged under this Memorandum of Understanding.
- b. For the purposes of this agreement "Proprietary Information" ("Informations Privilégiées" in French) shall mean information of a confidential nature such as trade secrets or commercial or financial information which is privileged or confidential and may only include such information which:
- (1) has been held in confidence by the owner;
  - (2) is of a type which is customarily held in confidence by its owner;

P.T.

*REC*

- (3) has not been transmitted by the transmitting Party to other entities (including the receiving Party) except on the basis that it be held in confidence; and
  - (4) is not otherwise available to the receiving Party from another source without restriction on its further dissemination.
- 2. a. If the Parties agree to transmit such information defined in paragraph B.1.b., the Parties shall first agree, in a specific memorandum and prior to the transmission, upon the proprietary nature as defined in paragraph B.1.b. of such information and upon the conditions of transmission. If the Parties are unable to agree upon the proprietary nature of the information or the conditions of transmission, said information shall not be transmitted under this Memorandum of Understanding.
- b. A Party receiving information pursuant to this Memorandum of Understanding shall respect the proprietary nature thereof as defined in paragraph B.1.b. Any document which contains Proprietary Information shall be clearly marked with the following (or substantially similar) restrictive legend:

"This document contains Proprietary Information furnished in confidence under a Memorandum of Understanding dated \_\_\_\_\_ between the United States Department of Energy and the French Commissariat a l'Energie Atomique and shall not be disseminated outside these organizations, their contractors and the concerned departments and agencies of the Governments of the United States and France without the prior approval of \_\_\_\_\_. This notice shall be marked on any reproduction hereof, in whole or in part. These limitations shall automatically terminate when this information is disclosed by the owner without restriction."
- c. Such information, as defined in paragraph B.1.b., transmitted by one Party to the other Party shall be respected by the Receiving Party in accordance with the appropriate memorandum, and shall not,

P.T.

REC

without the consent of the originating Party, be used for commercial purposes or made available to the public or be disclosed to any persons except on a need-to-know basis to:

- (1) Persons within the Receiving Party,
- (2) Other governmental agencies of the Receiving Party,
- (3) Unless otherwise agreed in the specific memorandum concerning the said information, persons employed by the Receiving Party and prime and subcontractors of the Receiving Party for use only within the framework of its contract(s) with respective Party engaged in work relating to the subject matter of the Proprietary Information so disseminated.

- C. Each Party shall exercise its best efforts to ensure that such information, as described in paragraph B.1.b., received by it under this Memorandum of Understanding is controlled as provided herein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the nondissemination provisions of this paragraph, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.
- D. Information arising from seminars and other meetings arranged under this Memorandum of Understanding and information arising from the attachment of staff shall be treated by the Parties according to the principles specified in this article; provided, however, that no information orally communicated shall be subject to the limited disclosure requirements of this Memorandum of Understanding unless the individual communicating the information places the recipient on notice as to the proprietary character, as defined in paragraph B.1.b., of the information communicated and forthwith confirms the notice in writing.
- E. Nothing contained in this Memorandum of Understanding shall preclude the use or dissemination of information received by a Party other than pursuant to this Memorandum.

P.T.

*REC*

Article 4

The application or use of any information exchanged or transferred between the Parties under this Memorandum of Understanding shall be the responsibility of the Party receiving it, and the transmitting Party does not warrant the suitability of such information for any particular use or application.

Article 5

- A. With respect to any invention or discovery conceived or first actually reduced to practice in the course of the cooperative activities undertaken by the Parties in implementing this Memorandum of Understanding:
1. If conceived or first actually reduced to practice by personnel of a Party (the Assigning Party) or its contractors while assigned to the other Party (the Recipient Party) or its contractors in connection with an exchange of scientists, engineers and other specialists:
    - a. The Recipient Party shall acquire all right, title and interest in and to such invention or discovery, and any patent application or patent that may result in its own country and in third countries; and
    - b. The Assigning Party shall acquire all right, title and interest in and to such invention, discovery, patent application or patent in its own country.
  2. If conceived by or first actually reduced to practice by a Party or its contractors as a direct result of employing information which has been communicated to it under this Memorandum of Understanding by the other Party or its contractors, but not otherwise agreed to under a cooperative effort covered by paragraph 5.A.3.:
    - a. The Party so conceiving or first actually reducing to practice such invention or discovery shall acquire all right, title and interest in and to such invention or discovery, and any patent application or patent that may result in its own country and in third countries; and
    - b. The other Party shall acquire all right, title and interest in and to such invention, discovery, patent application or patent in its own country.

P.T.

200

3. For other specific forms of cooperation, including exchanges of samples, materials, instruments, and components for special joint research projects, the Parties shall provide for appropriate distribution of rights to inventions. In general, however, each Party should normally determine the rights to such inventions in its own country and the rights to such inventions in other countries should be agreed by the Parties on an equitable basis.
  4. Notwithstanding paragraphs 5.A.1 and 5.A.2., in any case where one Party first actually reduces to practice after the execution of this Memorandum of Understanding an invention, either conceived by the other Party prior to the execution of this Memorandum of Understanding, or conceived not in the course of or under a cooperative activity implementing this Memorandum of Understanding, then the Parties shall provide for an appropriate distribution of rights taking into account existing commitments with third parties; provided, however, that each Party shall determine the rights to such invention in its own country.
  5. It is understood that after the European Patent Conventions have come into force, either Party may request a modification of this paragraph 5.A. for the purpose of according equivalent rights as provided in paragraphs 5.A.1. through 5.A.4. under the European Patent Conventions.
- B. The Party owning a patent covering any invention referred to in this Article 5.A. shall license the patents to nationals or licensees of the other Party, upon request of such other Party, on nondiscriminatory terms and conditions under similar circumstances. At the time of such a request, the other Party will be informed of all licenses already granted under such patent.
- C. Each Party shall take all necessary steps to provide the cooperation from its inventors required to carry out the provisions of this Article. Each Party shall assume the responsibility to pay awards or compensation required to be paid to its employees according to the laws of its country.

P.T.

*WCC*

Article 6

- A. When an exchange of staff is contemplated under this Memorandum, each Party shall ensure that qualified staff are selected for attachment to the other Party.
- B. Each Party shall be responsible for the salaries, insurance and allowance to be paid to its personnel while on attachment to the host Party unless otherwise agreed.
- C. Each Party shall pay for the travel and living expenses of its personnel while on attachment to the host Party unless otherwise agreed.
- D. The host establishment shall use its best efforts to arrange for comparable accommodation for the other Party's personnel on a mutually agreeable reciprocal basis.
- E. Each Party shall provide all requested assistance to the attached staff of the other Party as regards administrative formalities (travel arrangements, etc.).
- F. The personnel of each Party shall conform to the general rules of work and safety regulations in force at the host establishment.

Article 7

- A. By mutual agreement, a Party may provide equipment to be utilized in a joint activity. In such cases, the sending Party shall supply, as soon as possible, a detailed list of the equipment to be provided, together with the relevant specifications and appropriate technical and informational documentation related to use, maintenance and repair of the equipment.
- B. Title to the equipment and necessary spare parts supplied by the sending Party for use in joint activities shall remain in the sending Party, and the property shall be returned to the sending Party upon completion of the joint activity, unless otherwise agreed.
- C. The above-mentioned equipment shall be brought into operation at the host establishment only by mutual agreement between the Parties.

P.T.

*ROC*

- D. The host establishment shall provide the necessary premises for the equipment, shall provide for utilities such as electric power, water and gas, and normally shall provide materials to be tested, in accordance with technical requirements which shall be as mutually agreed upon.
- E. The responsibility and expenses for the transport of equipment and materials from the United States of America by plane or ship to an authorized port of entry in France convenient to the ultimate destination and return, and also responsibility for its safekeeping and insurance en route shall rest with DOE.
- F. The responsibility and expenses for the transport of equipment and materials from France by plane or ship to an authorized port of entry in the United States of America convenient to the ultimate destination and return, and also responsibility for its safekeeping and insurance en route shall rest with CEA.
- G. The equipment provided by the sending Party for carrying out joint activities shall be considered to be scientific, not having a commercial character and each Party shall make its best effort to obtain duty free entry.

#### Article 8

Cooperation under this Memorandum shall be in accordance with the laws and regulations of the respective Parties. All questions relating to the Memorandum arising during its terms shall be settled by the Parties by mutual agreement.

#### Article 9

Unless otherwise agreed, all costs resulting from cooperation under this Memorandum shall be borne by the Party that incurs them. It is understood that the ability of the Parties to carry out their obligations is subject to the appropriation of funds by the appropriate governmental authority, and to the constitution, laws, and regulations applicable to the Parties.

#### Article 10

Compensation for damages arising from cooperative activities shall be in accordance with the applicable laws and regulations of the Parties.

P.T.

*PC*



Article 11

This Memorandum shall remain in effect for five (5) years after its effective date and may be extended by mutual agreement. This memorandum may be terminated at any time at the discretion of either Party, upon three (3) months advance notification in writing by the Party seeking to terminate the Memorandum.

Done at Paris the 22nd of April 1983, in duplicate, in the French and English languages, both texts being equally authentic.

FOR THE UNITED STATES DEPARTMENT  
OF ENERGY



Director, Office of Safeguards  
and Security, Defense Programs

FOR THE COMMISSARIAT  
A L'ENERGIE ATOMIQUE



Directeur de l'Institut de  
Protection et de Sûreté  
Nucléaire

